

SENATE CS FOR CS FOR HOUSE BILL NO. 108(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/20/00

Referred: Rules

Sponsor(s): REPRESENTATIVES HUDSON, Halcro, Phillips, Kerttula, Cowdery, Murkowski, Bunde, Cissna, Joule, Smalley

SENATORS Hoffman, Ellis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the use, operation, and regulation of boats; establishing a
2 uniform state waterway marking system; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 INTENT. It is the intent of the legislature that

7 (1) at least 75 percent of any federal funds generated as a result of this Act
8 be used to fund a statewide boating safety and education program, and that the state program
9 operate in conjunction with the United States Coast Guard Auxiliary boating safety program
10 and other marine education organizations; and

11 (2) any amendment made on or after the effective date of this section and
12 before the date the delayed repeal and reenactment provisions of this Act take effect that is
13 made to existing law affected by the delayed repeal and reenactment provisions of this Act
14 will also be repealed when those provisions take effect.

* **Sec. 2.** AS 05.25.010 is repealed and reenacted to read:

Sec. 05.25.010. Safety requirements. (a) Except as otherwise provided by law, a boat placed on the water of the state

(1) must be equipped with and use the sound producing devices and visual distress signals of the same number, type, and specifications as required by the United States Coast Guard;

(2) that is equipped with a gasoline engine for electrical generation, mechanical power, or mechanical propulsion must also be equipped with the ventilation systems and backfire flame control devices of the same type and specifications as required by the United States Coast Guard; and

(3) that is equipped with an engine for electrical generation, mechanical power, or mechanical propulsion must also be equipped with the fire extinguishers of the same number, type, and specifications as required by the United States Coast Guard.

(b) The provisions of (a) of this section apply regardless of whether the boat is placed or operated on water of the state subject to federal jurisdiction.

(c) During the period of time extending from sunset to sunrise and during periods of restricted visibility, a boat placed on water of the state must display lights of the same number, type, and specifications as required by the United States Coast Guard under 33 U.S.C. 1602 and 33 U.S.C. 2002.

(d) A boat on water of the state must carry one United States Coast Guard approved Type I, Type II, or Type III personal flotation device in serviceable condition for each person on board the boat. A Type V personal flotation device may be carried in lieu of a personal flotation device required in this subsection if the Type V personal flotation device is in serviceable condition and

(1) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity in which the boat is being used, or that the device is approved as a substitute for a personal flotation device of the type required on the boat; and

(2) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the

owner's manual.

(e) In addition to the requirements in (d) of this section, a boat that is 16 feet or longer, other than a kayak or canoe, must carry one Type IV personal flotation device that can be thrown and that is approved by the United States Coast Guard.

(f) A person may not use a flashing or revolving red or blue emergency light on a boat unless the boat is operated by a peace officer or emergency professional in the performance of official duties.

(g) The operator of a boat on water of the state may not transport a person under 13 years of age on the deck of a boat or in an open boat unless the person is wearing a United States Coast Guard approved Type I, Type II, or Type III personal flotation device. A Type V personal flotation device may be worn in lieu of a personal flotation device required in this subsection if the Type V personal flotation device is in serviceable condition and

(1) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity in which the boat is being used, or that the device is approved as a substitute for a personal flotation device of the type required on the boat; and

(2) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the owner's manual.

(h) The Department of Public Safety may require, by regulation, that a boat or class of boats carry additional equipment that is necessary for the safety of persons and property.

* **Sec. 3.** AS 05.25.010 is repealed and reenacted to read:

Sec. 05.25.010. Safety requirements. (a) A watercraft operated on inland water must carry and exhibit between sunset and sunrise at least one white light to show all around the horizon.

(b) A watercraft operated on inland water must carry at least one life preserver, lifebelt, ring buoy, or other device approved by the United States Coast Guard for each person on board, so placed as to be readily accessible. A watercraft carrying passengers for hire must carry, so placed as to be readily accessible, at least

one life preserver approved by the United States Coast Guard for passenger-carrying watercraft for each person on board.

(c) A motor-driven watercraft operated for hire must carry a fire extinguisher capable of promptly and effectually extinguishing burning gasoline.

(d) The operator of a watercraft on the water of the state may not transport a person under 13 years of age on the deck of a watercraft or in an open watercraft unless the person is wearing a United States Coast Guard approved Type I, Type II, or Type III flotation device. In this subsection, "personal flotation device" does not include a life belt or life ring.

* **Sec. 4.** AS 05.25.020 is amended to read:

Sec. 05.25.020. Use of boat with water [WATER] skis and surfboards. (a)

A person may not operate a **boat** [WATERCRAFT] on **water** [THE INLAND WATERS] of **the** [THIS] state for towing a person on water skis, [OR] a surfboard, or **a** similar **device** [DEVICES] unless

(1) the **boat** [WATERCRAFT] is equipped with a rearview mirror in which the person being towed can be viewed; [,] or

(2) there is, in the **boat**, [WATERCRAFT] a person of 12 years of age or older in addition to the operator [,] in a position to observe the progress of the person being towed.

(b) A person may not operate a **boat** [WATERCRAFT] on [THE] water of the state to tow a person under 13 years of age on water skis, a surfboard, or **a** similar device unless the person being towed is wearing a United States Coast Guard approved

(1) Type I, Type II, or Type III personal flotation device; or

(2) Type V personal flotation device if the Type V personal flotation device is in serviceable condition and

(A) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity;

(B) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the owner's manual [. IN THIS SUBSECTION,

"PERSONAL FLOTATION DEVICE" DOES NOT INCLUDE A LIFE BELT

1 OR LIFE RING].

2 * **Sec. 5.** AS 05.25.020 is repealed and reenacted to read:

3 **Sec. 05.25.020. Water skis and surfboards.** (a) A person may not operate
4 a watercraft on inland water of the state for towing a person on water skis, a surfboard,
5 or similar devices unless

6 (1) the watercraft is equipped with a rearview mirror in which the
7 person being towed can be viewed; or

8 (2) there is in the watercraft a person of 12 years of age or older in
9 addition to the operator in a position to observe the progress of the person being
10 towed.

11 (b) A person may not operate a watercraft on water of the state to tow a
12 person under 13 years of age on water skis, a surfboard, or a similar device unless the
13 person being towed is wearing a United States Coast Guard approved Type I, Type II,
14 or Type III personal flotation device. In this subsection, "personal flotation device"
15 does not include a life belt or life ring.

16 * **Sec. 6.** AS 05.25.030 is repealed and reenacted to read:

17 **Sec. 05.25.030. Boat collisions, accidents, and casualties.** (a) The operator
18 of a boat involved in a collision, accident, or casualty shall

19 (1) render assistance as is practicable and necessary to save other
20 persons from danger or to minimize the danger to other persons to the extent that the
21 operator can do so without serious danger to the operator's boat, crew, and passengers;
22 and

23 (2) give the operator's name, address, and identification number of the
24 operator's boat in writing to each person injured in the collision, accident, or casualty
25 and to the owner of property damaged in the collision, accident, or casualty.

26 (b) For the purpose of gathering boating accident statistics, the operator of a
27 boat involved in a collision, accident, or casualty that results in death or injury to a
28 person, or damage to property in excess of \$500 for each incident, shall file a report
29 with the Department of Public Safety on or before the 20th day after the incident. The
30 Department of Public Safety shall prepare a form for the report and make the form
31 available to other agencies and to the public.

(c) In response to a request from an authorized official or agency of the United States, a law enforcement agency, or in compliance with United States Coast Guard regulations, the Department of Public Safety shall provide statistical information compiled or otherwise available to the Department of Public Safety from the reports required under (b) of this section.

* **Sec. 7.** AS 05.25.030 is repealed and reenacted to read:

Sec. 05.25.030. Collisions, accidents, and casualties. (a) The operator of a watercraft involved in a collision, accident, or casualty shall give to other persons affected by the collision, accident, or casualty assistance that is necessary to save them from or minimize any danger caused by the collision, accident, or casualty, and shall give the operator's name, address, and identification of the operator's watercraft in writing to any person injured and to the owner of any property damaged in the collision, accident, or casualty.

(b) In the case of collision, accident, or casualty involving a watercraft, the operator of the watercraft, if the collision, accident, or casualty results in death or injury to a person or damage to property in excess of \$100, shall file with the department a full description of the collision, accident, or casualty, including information the department, by regulation, requires.

* **Sec. 8.** AS 05.25.040 is amended to read:

Sec. 05.25.040. Owner's civil liability. The owner of a boat [WATERCRAFT] is liable for injury or damage caused by the negligent operation of the owner's boat [WATERCRAFT] whether the negligence consists of a violation of a state statute [,] or the failure [NEGLECTING] to exercise [OBSERVE] ordinary care in the operation of the boat [WATERCRAFT] as the rules of the common law require. The owner is not liable, however, unless the boat [WATERCRAFT] is used with the owner's express or implied consent. It is presumed that the boat [WATERCRAFT] is being operated with the knowledge and consent of the owner [,] if, at the time of the injury or damage, it is under the control of the owner's spouse, father, mother, brother, sister, son, daughter, or other member of the owner's immediate family. This chapter does not relieve any other person from a liability that the person would otherwise incur [,] and does not authorize or permit recovery in excess of injury

1 or damage actually incurred.

2 * **Sec. 9.** AS 05.25.040 is repealed and reenacted to read:

3 **Sec. 05.25.040. Owner's civil liability.** The owner of a watercraft is liable
4 for injury or damage caused by the negligent operation of the owner's watercraft
5 whether the negligence consists of a violation of a state statute or neglecting to observe
6 ordinary care in the operation of the watercraft as the rules of the common law require.
7 The owner is not liable, however, unless the watercraft is used with the owner's
8 express or implied consent. It is presumed that the watercraft is being operated with
9 the knowledge and consent of the owner if, at the time of the injury or damage, it is
10 under the control of the owner's spouse, father, mother, brother, sister, son, daughter,
11 or other member of the owner's immediate family. This chapter does not relieve any
12 other person from a liability that the person would otherwise incur and does not
13 authorize or permit recovery in excess of injury or damage actually incurred.

14 * **Sec. 10.** AS 05.25.050 is amended to read:

15 **Sec. 05.25.050. Declaration of policy.** It is the policy of the [THIS] state to
16 promote safety for persons and property in and connected with the use, operation, and
17 equipment of boats on water of the state [VESSELS IN RECREATIONAL
18 PURSUITS IN INLAND WATERS] and to promote uniformity of laws relating to
19 boat safety [THERE TO].

20 * **Sec. 11.** AS 05.25.050 is repealed and reenacted to read:

21 **Sec. 05.25.050. Declaration of policy.** It is the policy of this state to promote
22 safety for persons and property in and connected with the use, operation, and
23 equipment of vessels in recreational pursuits in inland water and to promote uniformity
24 of laws relating thereto.

25 * **Sec. 12.** AS 05.25 is amended by adding new sections to read:

26 **Sec. 05.25.052. Uniform state waterway marking system.** The department
27 shall develop and adopt regulations establishing a uniform state waterway marking
28 system for the placement of regulatory markers. The regulations must be compatible
29 with the system of aids to navigation prescribed by the United States Coast Guard.

30 **Sec. 05.25.053. Boating safety program.** (a) Except as provided in this
31 section, the department shall administer a statewide boating safety program. The

1 program must, to the extent consistent with state law,

2 (1) secure the full benefits available to the state under 46 U.S.C. 13101
3 - 13110; and

4 (2) take additional actions necessary to gain initial and ongoing federal
5 acceptance of the boating safety program and to qualify and apply for federal money
6 under 46 U.S.C. 13102.

7 (b) The department shall cooperate with local, state, and federal agencies,
8 private and public organizations, and individuals to provide for

9 (1) a statewide boating safety education program; the program must

10 (A) develop educational materials relevant to the unique needs
11 of urban and rural boaters in this state;

12 (B) support statewide boating safety training programs;

13 (C) support boating safety education and training programs for
14 children and other high risk groups;

15 (D) train, certify, and support boating safety instructors;

16 (E) evaluate, on an ongoing basis, the effectiveness of programs
17 funded under this chapter;

18 (2) a boating safety advisory council as described in AS 05.25.057;

19 (3) a uniform state waterway marking system; and

20 (4) a boat registration and numbering system through the Department
21 of Administration.

22 (c) The Department of Public Safety shall cooperate with local, state, and
23 federal agencies, private and public organizations, and individuals to provide for

24 (1) a boating collisions, accidents, and casualties reporting system; and

25 (2) boating safety patrol and law enforcement activity.

26 **Sec. 05.25.055. Registration and numbering of boats.** (a) An
27 undocumented boat placed on water of the state must be registered and numbered as
28 required by this chapter. The Department of Administration shall adopt by regulation
29 a boat registration and numbering system that

30 (1) except as provided in (2) of this subsection, is consistent with the
31 national standard for state numbering systems established by the United States Coast

1 Guard; and

2 (2) uses a size-appropriate decal for a boat that is not equipped with
3 mechanical propulsion, that is exclusively paddled, poled, rowed, or powered by wind,
4 and that is 10 feet or greater in length.

5 (b) In adopting a boat registration system under (a) of this section, the
6 Department of Administration shall authorize agents, including boat dealers, to register
7 boats.

8 (c) A boat dealer shall require a purchaser of a new or used boat sold at retail
9 to complete a registration application and pay the registration fee before the boat
10 leaves the dealer's premises unless the boat is exempt from registration and numbering
11 under this chapter or regulations adopted under this chapter.

12 (d) A person may not operate a boat on water of the state unless a valid
13 certificate of number has been awarded by the Department of Administration to the
14 boat and the identification number and any required validation decals are properly
15 displayed on the boat.

16 (e) The Department of Administration shall authorize agents to accept an
17 application and registration fee for registration, to issue a registration, and to forward
18 the application and registration fee to the Department of Administration.

19 (f) Unless otherwise provided by this chapter, or unless the owner has been
20 awarded a current, valid Alaska certificate of number from the United States Coast
21 Guard, the owner of a boat for which a current certificate of number has been awarded
22 under federal law or a federally approved numbering system of another state shall
23 apply for a certificate of number in this state as required by this chapter if the boat is
24 operated on water of the state for more than 90 consecutive days. If a boat has an
25 existing number, the owner may request that the department issue the same number for
26 purposes of this section, and the department shall comply with the request unless
27 compliance would result in a duplication of numbers.

28 (g) A certificate of number issued under this chapter is valid for three years
29 unless terminated or discontinued earlier as required by this chapter and regulations
30 adopted under this chapter. The certificate expires on the last day of the month at the
31 end of the three-year period. The expiration date shall be indicated on the certificate.

(h) All records of ownership of boats that are kept by the Department of Administration under this section are public records. The Department of Administration shall provide records of ownership and registration expense reports to the Department of Public Safety for the purposes of meeting the federal requirements for state programs and implementing this chapter.

(i) The following boats are exempt from the numbering and registration provisions of this section:

(1) a boat that is operated in this state for a period not exceeding 90 consecutive days and that has a current, valid certificate of number issued by another state having a federally approved numbering system;

(2) a foreign boat operated in water of the state for a period not exceeding 90 consecutive days;

(3) a boat owned by the United States or an entity or political subdivision of the United States, or a boat owned by a state or an entity or political subdivision of a state;

(4) a boat that is not equipped with mechanical propulsion, that is exclusively paddled, poled, rowed, or powered by wind, and that is

(A) under 10 feet in length; or

(B) operated in this state for a period not exceeding 30 days in a calendar year by a person who has not established residency as described under AS 01.10.055;

(5) a boat with a valid document to operate the boat that is issued by the United States or a foreign government.

Sec. 05.25.057. Alaska Boating Safety Advisory Council established. (a) The Alaska Boating Safety Advisory Council is established in the department.

(b) The council consists of seven members appointed by the governor. The governor shall appoint each member on the basis of interest in public affairs, knowledge of boating issues as they relate to both safety and water of the state, and good judgment and ability concerning boating safety. The appointed members shall represent boat owner interests, including owners of boats powered by engines and owners of boats that are paddled, poled, rowed, or powered by wind, shall be residents

of the state, and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the council, but shall be ex officio secretary.

(c) The purpose of the council is to

(1) recommend to the department boating safety educational materials;
 (2) review and make recommendations on proposed boating regulations;
 (3) consider regional boating safety needs and promote boating safety education programs throughout the state; and

(4) advise the department on state, regional, and national boating issues.

(d) The council may not meet more than two times in each calendar year.

Members of the council receive no compensation for services on the council, but are entitled to per diem and travel expenses authorized for boards under AS 39.20.180.

(e) In this section, "council" means the Alaska Boating Safety Advisory Council.

* **Sec. 13.** AS 05.25.060 is repealed and reenacted to read:

Sec. 05.25.060. Prohibited operation. A person may not operate a boat on water of the state

(1) for a recreational purpose or another purpose, or tow water skis, a surfboard, or a similar device, in a reckless or negligent manner so as to endanger the life or property of another person; or

(2) that is not equipped as required under this chapter and regulations adopted under this chapter.

* **Sec. 14.** AS 05.25.060 is repealed and reenacted to read:

Sec. 05.25.060. Prohibited operation. (a) A person may not operate a watercraft, whether for recreational purposes or any other purpose, or manipulate water skis, a surfboard, or a similar device on the water of the state in a reckless or negligent manner so as to endanger the life or property of another person.

(b) A person may not operate a watercraft, whether for recreational purposes or any other purpose, in violation of AS 28.35.030 on the water of the state while under the influence of any intoxicating liquor, narcotic drug, barbiturate, or marijuana.

* **Sec. 15.** AS 05.25.070 is amended to read:

Sec. 05.25.070. Exemptions. Boats [WATERCRAFT] and persons operating boats [WATERCRAFT] are exempt from this chapter [, EXCEPT AS 05.25.060(b),] when participating in the area set aside for a public regatta, race, marine parade, tournament, or exhibition on inland water; for purposes of this section, "inland water" means water of the state that is not offshore water [WATERS].

* **Sec. 16.** AS 05.25.070 is repealed and reenacted to read:

Sec. 05.25.070. Exemptions. Watercraft and persons operating watercraft are exempt from this chapter, except AS 05.25.060(b), when participating in the area set aside for a public regatta, race, marine parade, tournament, or exhibition on inland water.

* **Sec. 17.** AS 05.25.080 is repealed and reenacted to read:

Sec. 05.25.080. Enforcement. (a) The Department of Public Safety has authority for enforcement of this chapter and the regulations adopted under this chapter.

(b) A peace officer may enforce this chapter and regulations adopted under this chapter and, in the exercise of enforcement, may stop and, if the peace officer has probable cause to believe a violation of this chapter has occurred, may board a boat subject to this chapter. A peace officer may issue a citation as provided in AS 12.25.180 to a person who violates a provision of this chapter.

(c) A person employed by the Department of Natural Resources, or a person authorized by the commissioner under AS 41.21.955(a), acting as a peace officer, may enforce this chapter and regulations adopted under this chapter only in units of the state park system.

* **Sec. 18.** AS 05.25.080 is repealed and reenacted to read:

Sec. 05.25.080. Enforcement. A peace officer may enforce this chapter and, in the exercise of enforcement, may stop and board watercraft subject to this chapter.

* **Sec. 19.** AS 05.25.090 is repealed and reenacted to read:

Sec. 05.25.090. Penalties. (a) Except as provided in (b) of this section, a person who violates a provision of this chapter or regulations adopted under this chapter is guilty of a class A misdemeanor.

(b) A person who violates

(1) AS 05.25.010, 05.25.020, 05.25.030(b), 05.25.060(2), or a regulation adopted under this chapter relating to AS 05.25.010 or 05.25.020 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$500;

(2) AS 05.25.055 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$50.

(c) The supreme court shall establish by order or rule a schedule of bail amounts for violations under (b) of this section that allow the disposition of a citation without a court appearance.

* **Sec. 20.** AS 05.25.090 is repealed and reenacted to read:

Sec. 05.25.090. Penalties. (a) Except as provided in (b) of this section, a person who violates a provision of this chapter is guilty of a misdemeanor and is punishable by a fine of not more than \$500, or by imprisonment of not more than six months, or by both, for each violation unless that person is convicted of a violation of AS 28.35.030, in which case the sentence shall be in accordance with AS 28.35.030.

(b) A person who violates AS 05.25.010(d) or 05.25.020(b) is guilty of a violation, as defined in AS 11.81.900, and may be fined up to \$50.

* **Sec. 21.** AS 05.25 is amended by adding new sections to read:

Sec. 05.25.095. Regulations. (a) Except as provided in (c) - (e) of this section, the department may adopt regulations regarding requirements for certification of programs on boating safety education.

(b) In consultation with the Department of Public Safety, the Department of Administration may adopt regulations to implement this chapter with respect to the numbering, marking, and titling of undocumented boats.

(c) Regulations adopted under this chapter may not be less stringent than applicable minimum requirements of regulations governing recreational boat safety of the United States Coast Guard.

(d) The department may not adopt a regulation under (a) of this section if, before or during the period for public comment on the proposed regulation provided by AS 44.62.190, the Alaska Boating Safety Advisory Council provides the department with a written objection regarding the regulation, unless the department modifies the proposed regulation to satisfy the objection. The prohibition of this subsection does

not apply if modification of the proposed regulation to satisfy the council's objection would result in

(1) failure to meet a federal stringency requirement described under (c) of this section; or

(2) a regulation that is not consistent with another provision of law.

(e) Nothing in this section authorizes the department to prohibit a use of or access to the water of the state by a person or user group.

Sec. 05.25.096. Fees. (a) The Department of Administration shall assess the following fees:

(1) motorized boat registration, registration renewal, and transfer of registration, \$24 for a three-year period;

(2) nonmotorized boat registration, registration renewal, and transfer of registration, \$10 for a three-year period;

(3) replacement of lost registration, \$5;

(4) replacement of lost registration validation decals, \$5.

(b) The Department of Administration shall separately account for fees collected under (a) of this section for boat registration that are deposited in the general fund. The annual estimated balance in that account may be used by the legislature to make appropriations to the department and the Department of Administration to carry out the purposes of this chapter.

* **Sec. 22.** AS 05.25.100 is repealed and reenacted to read:

Sec. 05.25.100. Definitions. In this chapter, unless the context requires otherwise,

(1) "aids to navigation" means buoys, beacons, or other fixed objects in the water that are used to mark obstructions to navigation or to direct navigation through safe channels;

(2) "boat" means watercraft used or capable of being used as a means of transportation on water, except for

(A) a ship's lifeboat;

(B) a seaplane;

(C) an inspected passenger vessel; and

- 1 (D) a single air mattress, single inner tube, or other water toy;
- 2 (3) "boat dealer" means a person engaged wholly or in part in the
- 3 business of selling or offering for sale, buying or taking in trade for the purpose of
- 4 resale, or exchanging, displaying, demonstrating, or offering for sale three or more
- 5 boats within 12 consecutive months and who receives or expects to receive money,
- 6 profit, or any other thing of value;
- 7 (4) "certificate of number" means the document bearing the
- 8 identification number issued to a boat by the Department of Administration under this
- 9 chapter, by a federal agency, or by the state of principal use under a federally
- 10 approved numbering system;
- 11 (5) "commissioner" means the commissioner of natural resources;
- 12 (6) "department" means the Department of Natural Resources;
- 13 (7) "operate" means to navigate or to be in actual physical control of
- 14 a boat used or capable of being used as a means of transportation on water of the state;
- 15 (8) "owner" means a person who has a property interest other than a
- 16 security interest in a boat and the right of use or possession of the boat; "owner" does
- 17 not include a lessee unless the lease is intended as security;
- 18 (9) "ownership" means a property interest other than a security interest;
- 19 (10) "passenger" means a person on board a boat who is not the master,
- 20 operator, crew member, or other person engaged in a capacity in the business of the
- 21 boat;
- 22 (11) "regulatory marker" means an anchored or fixed marker in or on
- 23 the water, or sign on the shore or on a bridge over the water, other than aids to
- 24 navigation; "regulatory marker" includes swimming markers, bathing markers, speed
- 25 zone markers, identification markers, danger zone markers, boat keep out areas, special
- 26 anchorage areas, and mooring buoys;
- 27 (12) "serviceable condition" as applied to personal flotation devices
- 28 means
- 29 (A) metal or plastic hardware is not broken, deformed, or
- 30 weakened by corrosion;
- 31 (B) webbings or straps are not ripped, torn, or separated from

1 an attachment point;

2 (C) there are no rotted or deteriorated structural components that
3 fail when tugged;

4 (D) there are no rips, tears, or open seams in fabric or coatings
5 that are large enough to allow the loss of buoyant material;

6 (E) buoyant material has not become hardened, nonresilient,
7 permanently compressed, waterlogged, or oil-soaked, and does not show
8 evidence of fungus or mildew;

9 (F) there is no loss of buoyant material or evidence of buoyant
10 material that is not securely held in position;

11 (G) there is a properly armed inflation mechanism, complete
12 with a full inflation medium cartridge and all status indicators showing that the
13 inflation mechanism is properly armed, unless the PFD is worn inflated;

14 (H) inflatable chambers are all capable of holding air;

15 (I) oral inflation tubes are not blocked, detached, or broken;

16 (J) the manual inflation lanyard or lever is not inaccessible,
17 broken, or missing;

18 (K) inflator status indicators are not broken or otherwise non-
19 functional;

20 (13) "undocumented boat" means a boat that does not possess a valid
21 certificate of documentation issued by the United States Coast Guard under 46 U.S.C.
22 12101 - 12123;

23 (14) "validation decal" means a decal that has the state of registration
24 and registration expiration year clearly marked;

25 (15) "water of the state" has the meaning given in the term "navigable
26 water" in AS 38.05.965; "water of the state" also includes the marginal sea adjacent
27 to the state and the high seas within the territorial limits of the state, irrespective of
28 the ownership of the land underlying those waters.

29 * **Sec. 23.** AS 05.25.100 is repealed and reenacted to read:

30 **Sec. 05.25.100. Definitions.** In this chapter, unless the context otherwise
31 requires,

- 1 (1) "department" means the Department of Public Safety;
- 2 (2) "operate" means to navigate or otherwise use a watercraft for
- 3 recreational purposes as opposed to business, subsistence, or commercial purposes;
- 4 (3) "watercraft" means every description of vessel, other than a
- 5 seaplane on the water, used or capable of being used as a means of transportation on
- 6 water and devoted to recreational pursuits unless otherwise expressly provided in this
- 7 chapter; and excepting vessels having a valid marine document issued by the United
- 8 States or foreign governments;
- 9 (4) "water of the state" means all water, fresh or salt, inland or coastal,
- 10 within the territorial limits or under the jurisdiction of the state.

11 * **Sec. 24.** AS 09.25.120(a) is amended by adding a new paragraph to read:

12 (9) reports submitted under AS 05.25.030 concerning certain collisions,

13 accidents, or other casualties involving boats.

14 * **Sec. 25.** AS 12.25.190(c) is amended to read:

15 (c) The person cited for the crime shall give a written promise to appear in

16 court by signing at least one copy of the written citation prepared by the peace officer,

17 and the officer shall deliver a copy of the citation to the person. The written promise

18 requirement of this subsection does not apply to **boating citations for which a bail**

19 **schedule has been established under AS 05.25.090(b)**, motor vehicle and traffic

20 citations for which a bail or fine schedule has been established under AS 28.05.151,

21 fish and game citations for which a bail schedule has been established under

22 AS 16.05.165, citations issued under AS 04.21.065, citations issued under

23 AS 18.35.341, citations issued in state park and recreational facilities under

24 AS 41.21.960, or littering citations issued under AS 46.06.080.

25 * **Sec. 26.** AS 12.25.190(c) is repealed and reenacted to read:

26 (c) The person cited for the crime shall give a written promise to appear in

27 court by signing at least one copy of the written citation prepared by the peace officer,

28 and the officer shall deliver a copy of the citation to the person. The written promise

29 requirement of this subsection does not apply to motor vehicle and traffic citations for

30 which a bail or fine schedule has been established under AS 28.05.151, fish and game

31 citations for which a bail schedule has been established under AS 16.05.165, citations

1 issued under AS 04.21.065, citations issued under AS 18.35.341, citations issued in
2 state park and recreational facilities under AS 41.21.960, or littering citations issued
3 under AS 46.06.080.

4 * **Sec. 27.** AS 05.25.052, 05.25.053, 05.25.055, 05.25.057, 05.25.095, 05.25.096, and
5 AS 09.25.120(a)(9) are repealed.

6 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **TRANSITION: REGULATIONS.** The Department of Natural Resources, Department
9 of Public Safety, and Department of Administration may immediately proceed to adopt
10 regulations to implement their respective provisions of this Act. The regulations take effect
11 under AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1,
12 2, 4, 6, 8, 10, 12, 13, 15, 17, 19, 21 - 22, 24, and 25 of this Act.

13 * **Sec. 29.** Section 28 of this Act takes effect immediately under AS 01.10.070(c).

14 * **Sec. 30.** Sections 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, and 27 of this Act take effect on
15 the earlier of the following dates:

16 (1) July 1, 2005; or

17 (2) 90 days after the date the chair of the Alaska Legislative Council notifies
18 the revisor of statutes that in the previous state fiscal year the state did not receive and does
19 not anticipate receiving federal funding for a statewide boating and safety education program;
20 the director of the division of legislative finance shall notify the chair of the Alaska
21 Legislative Council when the state, in the previous fiscal year, did not receive federal funding
22 for a statewide boating and safety program; the chair of the Alaska Legislative Council may
23 not give the notice described in this paragraph unless the notice is approved by a vote of a
24 majority of the members of the Alaska Legislative Council.